

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15254 of 2004

Between:

G. Titali Devi, W/o Chandramouli,
r/o Gudlavalleru Village and Mandal,

Krishna District **PETITIONER**

AND

1.The District Cooperative Officer,

Krishna District at Machilipatnam

2.The Deputy Registrar/Officer on Special Duty,

Krishna District Coop. Central Bank Ltd.,

Machilipatnam Krishna District

3.The Cooperative Sub-Registrar/Sale Officer,

Lakshmipuram PACS, Krishna District

Coop. Central Bank Ltd., Machilipatnam,

Krishna District**RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the impugned action of the respondents in issuing impugned proceedings of attachment of the property of the petitioner bearing D. No. 4/127 (Old D. No. 4/152C) situated in Gudlavalleru Village and Mandal, Krishna District and thereby issuing notice for conducting auction on 30-8-2004 without any notice or opportunity to the petitioner is highly illegal, arbitrary and violative of Art. 14 of the Constitution of India and also violative of principles of natural justice without jurisdiction apart from contrary to the provision of A.P.C.S. Act and rules made there under.

Counsel for the Petitioner: MR.G.V.SHIVAJI

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following :

ORDER:

Petitioner, who claims to be owner of the property, which is sought to be auctioned pursuant to the attachment in E.P.No.44 of 2004-05 dated 20-7-2004, filed the present writ petition.

The grievance of the petitioner is that a surcharge order was passed against her husband making him liable for non supervision of the Kokkiligadda PACS affairs and the property of the petitioner was sought to be auctioned by the second respondent for realization of the amounts due under the said surcharge proceedings.

Petitioner filed a claim petition before the third respondent and the same was rejected. On rejection of the same, when the petitioner filed a suit it was returned. Against which the petitioner carried the matter in C.R.P.No.3552 of 2004 before this Court. The said revision was disposed of at the admission stage, staying the auction for a period of four weeks and granting liberty to the petitioner to raise the objections raised in the Civil Revision Petition before the Civil Court where the suit is filed. To circumvent the same order, the property of the petitioner is sought to be attached for due recovery of the surcharge amount payable to the Lakshmipuram PACS.

In view of the same, it is always open for the petitioner to file claim petition before the third respondent as contemplated under sub-rule 21(a) of Rule 52 of the A.P.Co-operative Societies Act, 1964. On making such claim by the petitioner, the third respondent is under obligation to consider the same and pass appropriate order or can postpone the same till he decides the claim petition.

Writ Petition is accordingly disposed of. No costs.

26-8-2004

Note:

Issue CC

by tomorrow.

B/o

LUR

Copy to:

1.The District Cooperative Officer,

Krishna District at Machilipatnam

2.The Deputy Registrar/Officer on Special Duty,

Krishna District Coop. Central Bank Ltd.,

Machilipatnam Krishna District

3.The Cooperative Sub-Registrar/Sale Officer,

Lakshmipuram PACS, Krishna District

Coop. Central Bank Ltd., Machilipatnam,

Krishna District.

4.Two CCs to the G.P. for Cooperation,

High Court Buildings, High Court of A.P., Hyderabad.(O.U.T.)

5.Two CD copies.

